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January 18, 1994

Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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JAN 21 1994

FCC MAIL ROOM

93-253

Dear Sirs:

Pursuant to FCC Rule §1.1206(2), attached is an original and a copy of a memorandum reflecting the comments made to Commissioner James Quello in an oral ex parte presentation made today. Thank you.

Sincerely yours;



Matthew L. Leibowitz  
Counsel for Church and  
Tower, Inc.

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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of )

Implementation of Section 309(j) )  
of the Communications Act )  
Competitive Bidding )  
Treatment of Designated )  
Entities )

PP Docket No. 93-253

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To: The Secretary

EX PARTE PRESENTATION

JUN 21 1994  
FCC MAIL ROOM

Church and Tower, Inc. ("Church and Tower") submits an original plus one copy of the following summary of concerns advanced ex parte regarding the above referenced rule making proceeding.

1. In the Implementation of Section 309(j) of the Communications Act Competitive Bidding rulemaking, the Commission proposes several methods designed to further Congress' objective of ensuring that minority owned businesses are "given the opportunity to participate" in the provision of spectrum based services.

2. Church and Tower is concerned that while the rulemaking recognized that "capital formation is one of the major barriers to full participation by small and minority businesses," it did not focus on what time frame minority controlled businesses will have to raise capital. Minority controlled businesses will need time to raise sufficient funding between the time essential definitions and terms are promulgated and the date auctions begin.

Specifically, if the May 7th date referred to in the rulemaking is the date when auctions begin, minority businesses will not be afforded enough time to procure financing.

3. In paragraph 77 of the rulemaking, the Commission proposes to rely on existing rules and policies for a definition of "minority controlled" business. However, eligibility criteria for preferences differ pursuant to the broadcast multiple ownership rules and the Commission's current tax certificate policy. To be eligible for a tax certificate, minority ownership of and control of the entity in question must never be below 51%, while a minority only need own and control over 50% of a broadcast station for purposes of the multiple ownership rules. It is not clear to what extent "control" of a minority owned business will be required for an entity to take advantage of the Commission's proposed preferences.

4. If minority controlled businesses are to garner sufficient funding, they must be aware of how consortia are going to be regarded by the Commission. Most importantly, minority businesses need to know under what circumstances will consortia be eligible to bid for the spectrum to be "set aside" for designated entities.

5. Tax certificates can play a significant role in encouraging minority participation, but, unless the Commission allows sufficient time following the announcement of criteria for tax certificate issuance and how certificates can be used to form consortia, they will not serve to further Congress' objective.

Respectfully submitted,

A handwritten signature in dark ink, appearing to be 'M. Leibowitz', written over a horizontal line.

Matthew L. Leibowitz  
Counsel for Church and Tower, Inc.

January 18, 1994

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